

# In the Court of Appeals of the State of Alaska

**Christopher Panamarioff,**  
Appellant,

v.

**State of Alaska,**  
Appellee.

Court of Appeals No. **A-12503**

## **Order**

Petition for Rehearing

Date of Order: **1/26/2021**

Trial Court No. **3KO-12-00002CR**

Before: Chief Judge Allard, Judge Harbison, and Senior Judge Mannheim<sup>1</sup>

The Appellant, Christopher Panamarioff, seeks rehearing of our decision in his case: *Panamarioff v. State*, Alaska App. Memorandum Opinion No. 6879 (June 24, 2020), 2020 WL 3445389. Panamarioff points out that this Court failed to specifically address his argument that he is entitled to a new trial under the federal law pertaining to juror misconduct, and he asks us to grant rehearing so that we can address this claim of error. *See* Alaska Appellate Rule 506(a)(3).

### IT IS ORDERED:

1. The petition for rehearing is GRANTED.
2. The three following paragraphs are added to our prior opinion, beginning at the point where our earlier discussion of the juror misconduct ended (at the bottom of page 9 of our slip opinion) and all subsequent footnotes are renumbered:

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<sup>1</sup> Sitting by assignment made pursuant to Article IV, Section 11 of the Alaska Constitution and Administrative Rule 23(a).

Panamarioff separately claims that he is entitled to a new trial based on the federal test for juror misconduct. Under federal law, to obtain a new trial based on a claim of juror misconduct during voir dire, a party must demonstrate that the juror failed to give an honest answer to a material question on voir dire, and then further show that if the juror had answered the question honestly, this would have provided a valid basis to challenge the juror for cause.<sup>7</sup>

But as we have just explained, the trial judge rejected the claim that S.D.’s voir dire testimony was dishonest. The judge acknowledged that S.D. initially failed to disclose his minimal acquaintance with Kelly, but the judge found that S.D. had not consciously tried to withhold this information — that, instead, S.D. had failed to understand that even this minimal acquaintance could be relevant. In addition, the judge found that even if this information had come out during voir dire, Panamarioff’s attorney would not have challenged S.D.

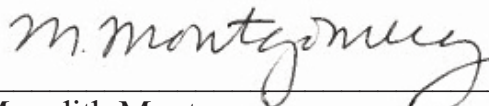
We accordingly reject Panamarioff’s claim of federal error.

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<sup>7</sup> See *Dyer v. Calderon*, 151 F.3d 970, 973 (9th Cir. 1998) (“[E]ven an intentionally dishonest answer is not fatal, so long as the falsehood does not bespeak a lack of impartiality.” (citing *McDonough Power Equip., Inc. v. Greenwood*, 464 U.S. 548, 555-56 (1984))).

Entered at the direction of the Court.

Clerk of the Appellate Courts

  
Meredith Montgomery

cc: Court of Appeals Judges  
Trial Court Clerk - Kodiak  
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